

LEGAL ASPECTS

CUSTODY AND CONTROL

- OBTAIN CONSENT TO COLLECT SAMPLES
- ASK PERMISSION TO OPEN CABINETS, REFRIGERATORS, PANTRIES, TOY BOXES

CUSTODY AND CONTROL...

- A sample is in your custody /control when:
- in your actual possession;
- in a designated secure area;
- Or
- in a locked box, locked car, locked desk.

CHAIN OF CUSTODY

- Form should be completed properly ;
- Should accompany samples at each stage of process;
- Take measures to ensure integrity of sample;
- Sample should be properly packaged and labeled;

CONFIDENTIALITY

- Medical information in file is confidential;
- Portions of the 3651 is confidential;
- Information obtained from DSS is confidential;
- Program policy—protect names of children

PUBLIC RECORD

- Environmental investigation reports
- Notices/letters/orders
- Field notes

RESPONDING TO RECORDS REQUEST

- Within reasonable time
- No authority to ask for purpose of request
- Do not have to make record if one does not exist
- All confidential information must be redacted/removed from file before release unless you receive a written release signed by parent/guardian

RECORDS REQUESTS

- No request should be denied on the grounds that confidential information is commingled with non-confidential information
- Agency bears the costs of separating the information maintained in a commingled file;

LEGAL REMEDIES

- Administrative search and inspection warrant
- Civil action in superior court
- Criminal action in district court
- Revocation and denial of certificate of compliance--OAH

FORMS

- Forms for use in program have been developed and are revised frequently
- Notices, Orders
- Letters to parents
- Letters to owners regarding monitoring
- Consent forms for use in enhanced recommended cases

CERTIFICATION

- State and federal laws require that:
- Lead investigations to be conducted by certified risk assessor or inspector
- Most abatements be performed by certified individuals;

FEDERAL DISCLOSURE LAWS

- Federal law requires owner to inform buyer/tenant of known lead hazards
- Provide EPA pamphlet to buyer/tenant
- No requirement that owner correct hazard
- EPA/HUD enforces

LEGAL ASSISTANCE

- County attorney;
- District attorney;
- Attorney General's office

THE END

